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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 ANDRUE JEFFERSON, Case No. 3:19-cv-00331-LRH-WGC

10 v. Petitioner,

11 ORDER

12 PERRY RUSSELL, et al.,

13 Respondents.

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15 This is a habeas corpus proceeding under 28 U.S.C. § 2254. As directed by this  
16 court's order of June 24, 2019 (ECF No. 3), Andrue Jefferson, a Nevada prisoner, has  
17 paid the filing fee for this action. Thus, the Clerk will be ordered to file Jefferson's  
18 habeas petition (ECF No. 1-1) and motion for appointment of counsel (ECF No. 1-2).

19 The court has reviewed the habeas petition pursuant to Rule 4 of the Rules  
20 Governing Section 2254 Cases in the United States District Courts. The petition will be  
21 served upon the respondents and will require a response.<sup>1</sup>

22 Jefferson's motion for appointment of counsel will be denied. "Indigent state  
23 prisoners applying for habeas corpus relief are not entitled to appointed counsel unless  
24 the circumstances of a particular case indicate that appointed counsel is necessary to

25 \_\_\_\_\_  
26 <sup>1</sup> Jefferson's petition indicates that it is a "protective petition" and that he requests a stay under *Rhines v. Weber*,  
27 544 U.S. 269 (2005). ECF No. 1-1, pp. 1, 86. His request is premature until he identifies or presents claims for which  
he has failed to exhaust state court remedies and makes the necessary showing. See *Rhines*, 544 U.S. at 275 (purpose  
of stay and abeyance is to allow petitioner to return to state court to exhaust previously unexhausted claims).

1 prevent due process violations." *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9<sup>th</sup> Cir. 1986)  
2 (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9<sup>th</sup> Cir. 1970) (per curiam)). The court may,  
3 however, appoint counsel at any stage of the proceedings "if the interests of justice so  
4 require." See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases;  
5 *Chaney*, 801 F.2d at 1196. It appears to the court that appointment of counsel is not  
6 warranted in this case.

7 IT IS THEREFORE ORDERED that the Clerk of the Court is directed to  
8 separately file the petition for writ of habeas corpus and the motion for appointment of  
9 counsel, each of which is currently attached to the *in forma pauperis* application at ECF  
10 No. 1.

11 IT IS FURTHER ORDERED that the Clerk is directed to add Aaron D. Ford,  
12 Attorney General of the State of Nevada, as counsel for respondents.

13 IT IS FURTHER ORDERED that the Clerk is directed to electronically serve  
14 upon respondents a copy of the petition for writ of habeas corpus and a copy of this  
15 order.

16 IT IS FURTHER ORDERED that respondents will have **60 days** from the date on  
17 which the petition is served upon them to appear in this action, and to answer or  
18 otherwise respond to the petition. If respondents file an answer, petitioner will have **60**  
19 **days** to file a reply to the answer. If respondents file a motion to dismiss, petitioner will  
20 have **60 days** to file a response to the motion to dismiss, and then respondents will  
21 have **30 days** to file a reply to petitioner's response.

22 IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel is  
23 DENIED.

24 DATED this 5th day of August, 2019.  
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26   
27 LARRY R. HICKS  
28 UNITED STATES DISTRICT JUDGE